



CCPE (2015)1

CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE)

Questionnaire for the preparation of the Opinion No. 10 of the CCPE on the relationship between prosecutors and police and/or other investigation bodies

A. Relationship between prosecutors and the police

1. Please briefly describe the relationship between prosecutors and the police or other investigation body in your country.

In Denmark, criminal investigations are carried out by the Police. However, criminal cases against police officers are carried out by the Independent Police Complaint Authority. There are no other investigative bodies.

Both the Police and the Prosecution Service belong to the executive power and are under the responsibility of the Minister of Justice. At the local level, the Police and the Prosecution Service are integrated in a joint structure. Thus, the local Commissioner is at the same time the head of the Police and of the Prosecution Service.

2. Is there any dialogue with the prosecutor concerning the work of the police or other investigation body?

Yes, due to the structure described under point 1, there is a very close daily contact and cooperation between Police and Prosecution, both when it comes to specific cases and to questions of a more general nature.

Also, the Prosecution has a supervisory role Vis a Vis the Police and must ensure the legality of the investigations.

3. Is the prosecutor involved in training the police or other investigation body?

Yes. Many teachers at the Danish Police College are prosecutors. Also, joint training of both investigators and prosecutors are often organised. Especially at the local level, prosecutors organise ad hoc training sessions for investigators.

B. Existing legal provisions and regulations

4. Is any relationship between prosecutors and investigation bodies determined by law or other provisions? Please describe briefly.

According to the Danish criminal procedural code, the task of prosecutors is – together with the Police – to pursue crime in accordance with the law.

C. Responsibility of the prosecutor for setting priorities for investigating offenses

5. How are priorities in starting criminal investigations in your country determined?

According to the law, the Police will – either upon complaint or by its own initiative - initiate investigations when there is reason to believe that a criminal offence has been committed.

Denmark applies the principle of opportunity. There are no guidelines or instructions issued to guide the discretionary decisions.

6. Do prosecutors or the prosecution service in a direct way have an influence on this?

Most often, decisions whether or not to initiate investigations are taken by the Police. However, the prosecution can always order the Police to initiate investigations. Also, due to the supervisory functions towards the police, the Prosecution can give instructions on whether or not to initiate investigations.

D. Responsibility of the prosecutor during the investigation

7. Are prosecutors responsible for the conduct of investigations in your country? If no, who is responsible for that?

In Denmark, the Police are responsible for carrying out investigations. The Police can initiate an investigation and carry out various investigative steps on their own initiative. However, all intrusive measures must be warranted by the Courts. It is the Prosecution who decides whether or not conditions for an investigative step are likely to be met – and thus decides whether or not to request the Court to approve the measure.

8. When does the prosecutor receive a complaint (as soon as the complaint is filed, or after the investigation has been conducted by the police)?

In cases where intrusive investigative measures and/or pre-trial detention are not required, see point 7, the Prosecution will normally receive the case only after the completion of the investigation.

In cases where intrusive investigative measures and/or pre-trial detention are to be used, the Prosecution will most likely be involved at an early stage.

9. What is the degree of autonomy of the police or other investigation body, if any, during the investigation?

The Danish Police have a wide autonomy. In larger or more complex cases however, investigations will always be carried out in cooperation between Police and Prosecution. See also point 7.

10. Does the prosecutor have the power to prevent or stop an investigation?

Yes. However, this is very unlikely to take place and will probably only take place if it is considered that initiation of investigations must be considered a violation of the law.

11. How is it decided which service of the police or other investigation body, if any, is competent to investigate?

Denmark only has one Police force. Usually, investigations are carried out in the Police district where the crime has been committed – or where a suspect has his residence.

The State Prosecutor for Serious Economic and International Crime can decide to investigate and prosecute all cases of economic crime and will investigate and prosecute all cases of international crime.

12. If the prosecutor leads the police or other criminal investigation in your country, does the prosecutor have the power to monitor compliance with his/her instructions? If so, please briefly describe.

The Prosecution can give instructions to the Police in a specific case.

E. Responsibility of the prosecutor for the respect of the law

13. Is it a responsibility of the prosecutor to control respect for the law by the police or other investigation body, if any? If yes, at which stage and by which means of control?

Yes. The control is carried out during the investigative phase - normally as part of the daily cooperation. Also, control can be exercised after the termination of the investigation when the prosecution formally receives the case and sees the case file.

The prosecution can also decide to make a general supervision or surveillance of a specific area of Police action. They can then ask to see all cases relevant to this supervision/surveillance. This may lead to targeted training or information meetings with the local investigators.

F. Common principles concerning the police

14. Are there written regulations concerning the conduct of criminal investigations by the police or other investigation body?

The conditions and procedures for investigations are set out in the criminal procedural code. The Police have also made internal guidelines on certain investigative steps.

15. What are these regulations about? (for instance, the way to carry out interrogations, deprivation of liberty etc.)

G. General control over police

16. What is the general control system of the police or other investigation body, if any (internal/external?) Does the prosecutor play a role in this system?

Denmark has established an Independent Police Complaint Authority that handles complaint over the Police – both Police conduct and also criminal offences committed by police officers.

The independent authority investigates allegations of un-proper police behaviour and decides whether the express criticism.

The independent authority also investigates allegations of criminal offences committed by police officers. After finalizing investigations, the case is sent to the State Prosecutor (the prosecution at the regional level) who then decides whether or not the case should be prosecuted. The decision not to prosecute a police officer can be appealed to the office of the Director of Public Prosecutions.

17. Is the prosecutor competent to take sanctions?

No.

H. Conclusions

18. What are the major challenges in relations between prosecutors and investigation bodies in your country?